

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT
(PCT Article 36 and Rule 70)

Applicant's or agent's file reference P13057/MA	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/PEA/416)	
International application No. PCT/EP 03/1168	International filing date (day/month/year) 09.10.2003	Priority date (day/month/year) 18.10.2002
International Patent Classification (IPC) or both national classification and IPC H04Q7/32		
Applicant SONY ERICSSON MOBILE COMMUNICATIONS AB		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of 7 sheets, including this cover sheet.

☐ This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of sheets.

3. This report contains indications relating to the following items:

I ☒ Basis of the opinion

II ☐ Priority

III ☒ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability



IV ☐ Lack of unity of invention

V ☒ Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

VI ☐ Certain documents cited

VII ☐ Certain defects in the international application

VIII ☐ Certain observations on the international application

Date of submission of the demand 22.04.2004	Date of completion of this report 17.01.2005
Name and mailing address of the international preliminary examining authority:  European Patent Office - P.B. 5818 Patentlaan 2 NL-2280 HV Rijswijk - Pays Bas Tel. +31 70 340 - 2040 Tx: 31 651 epo nl Fax: +31 70 340 - 3016	Authorized Officer Palencia Gutiérrez, C Telephone No. +31 70 340-4945 <div style="text-align: right;">  </div>

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. PCT/EP 03/1168

I. Basis of the report

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17)*):

Description, Pages

1-6 as originally filed

Claims, Numbers

1-17 received on 18.06.2004 with letter of 15.06.2004

? (cf. Re Item I)

Drawings, Sheets

1/1 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
☐ the language of publication of the international application (under Rule 48.3(b)).
☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
☐ filed together with the international application in computer readable form.
☐ furnished subsequently to this Authority in written form.
☐ furnished subsequently to this Authority in computer readable form.
☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
☐ the claims, Nos.:
☐ the drawings, sheets:

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5. ☒ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)

see separate sheet

6. Additional observations, if necessary:

III. Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

1. The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non-obvious), or to be industrially applicable have not been examined in respect of:

☐ the entire international application,

☒ claims Nos. 1-17

because:

☐ the said international application, or the said claims Nos. relate to the following subject matter which does not require an international preliminary examination (specify):

☐ the description, claims or drawings (*indicate particular elements below*) or said claims Nos. are so unclear that no meaningful opinion could be formed (*specify*):

☒ the claims, or said claims Nos. 1 are so inadequately supported by the description that no meaningful opinion could be formed.

☐ no international search report has been established for the said claims Nos.

2. A meaningful international preliminary examination cannot be carried out due to the failure of the nucleotide and/or amino acid sequence listing to comply with the standard provided for in Annex C of the Administrative Instructions:

☐ the written form has not been furnished or does not comply with the Standard.

☐ the computer readable form has not been furnished or does not comply with the Standard.

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	
	No: Claims	1-5,9-13, 17
Inventive step (IS)	Yes: Claims	
	No: Claims	6-8,14-16
Industrial applicability (IA)	Yes: Claims	1-17
	No: Claims	

2. Citations and explanations

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see separate sheet

Re Item I

Basis of the report

Due to the lack of support of the claims filed with the letter of 15.6.2004 the following opinion in Section V is based on the original set of claims 1-17.

Reference is made to the following documents:

D1: DE 198 01 576 A (DEUTSCHE TELEKOM MOBIL) 22 July 1999 (1999-07-22)

D2: EP-A-1 041 799 (SRF SA) 4 October 2000 (2000-10-04)

Re Item III

Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

No support could be found to the "programming a menu system" of claim 1 filed with the letter of 15.6.2004. On the contrary the application only refers to programming a device and the menu system is one of the means used for programming the device.

The "programming a menu system" of claim 1 filed with the letter of 15.6.2004 can not be directly and unambiguously derivable from the application as filed nor from the particular passages of the description in page 2, lines 13-17 and line 23 as required by Article 34(2)(b), Rule 70.2(c) and the Guidelines, Chapter VI, 7.9.

In particular, "the programming of a menu system" as in claim 1 is not restricted to a method step that provides a mobile telephone to a user with required information readily at hand for applications existing on the relevant market. The scope of the claim extends also to the not supported embodiment of the user itself programming a menu system.

Furthermore, document D1 in passages column 1, lines 56-61 and column 3, lines 14-22 also considers the step of providing a mobile telephone to a user, which has been customised at the vendors office or at the service provider premises for an application.

Re Item V

Reasoned statement with regard to novelty, inventive step or industrial applicability: citations and explanations supporting such statement

1. The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claims 1-5, 9-13 and 17 is not new in the sense of Article 33(2)

PCT.

- 1.1 Document D1 describes a method for downloading settings for an application into a device (see column 1, lines 49-55) consisting of the steps of: programming the device in dependence of at least one predetermined application (see column 1, lines 31-33), such that the device is adapted to display a menu in which a user may navigate, the menu being associated with said application and guiding the user (see column 1, lines 37-42); actuating the device by means of a keystroke while in said menu causing the device to contact a server and download the settings for the application (see column 1, lines 43-46).

In document D1 the menu tailored for contacting servers is loaded in the SIM card (see column 1, lines 31-37) and the menu could have been downloaded through the radio interface in a first contact (see column 2, lines 55-58) or at the service provider premises (see column 3, lines 14-19) and in both cases it prepares the device for the application because through this menu the user handles the settings for the application and requests the services of the application (see column 1, lines 52-55).

- 1.2 The same as in paragraph 2.1 applies for claim 9, which is the corresponding device claim.
- 1.3 Furthermore, dependent claims 2-5, 10-13 and 17 are known from D1 (for claims 2 and 10: see column 2, lines 47-58; for claims 3 and 11: see column 1, lines 37-55; for claims 4, 5, 12 and 13: see column 2, lines 21-22; for claim 17: see fig. 1).
- 1.4 Therefore, the subject-matter of claims 1-5, 9-13 and 17 is not new (Article 33(2) PCT).
2. The subject-matter of claims 6-8 and 14-16 is not inventive (Article 33(3)PCT).
- 2.1 Dependent claims 6-8 and 14-16 do not appear to contain any additional features which in combination with the features of any claim to which they refer, involve an inventive step for the reason that the subject-matter of said claims is either in principle directly derivable from the disclosure of document D2 (for claims 6-8 and 14-16: see column 2, paragraphs 8 and 9).

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Therefore, dependent claims 6-8 and 14-16 do not meet the requirements of Article 33(3) PCT.